IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

WP(C).No. 22126 of 2007(H)

PETITIONER:

RADHAKRISHNAN NAIR A.,
TECHNICIAN GRADE II (REFRIGERATION),
MILMA, PATHANAMTHITTA DAIRY, PATHANAMTHITTA.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA,
ADV. SRI.K.I.SAGEER.

RESPONDENTS:
----

1. **REGISTRAR OF DAIRY CO-OPERATIVES,**
   DAIRY DEVELOPMENT DEPARTMENT, PATTOM,
   THIRUVANANTHAPURAM.

2. **THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE**
   MILK PRODUCERS UNION LTD., (MILMA),
   KSHEERA BHAVAN, PATTOM, THIRUVANANTHAPURAM.

3. **MANAGING DIRECTOR,**
   THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE MILK
   PRODUCERS' UNION LTD., (MILMA), KSHEERA BHAVAN,
   PATTOM, THIRUVANANTHAPURAM.

4. **STATE OF KERALA, REP. BY**
   ITS SECRETARY TO GOVERNMENT, DEPT. OF AGRICULTURE,
   GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI. P.K. RAVIKRISHNAN FOR R1 & R4,
ADV. SRI.B.S.KRISHNAN(SR.), SC, MILMA FOR R2 & R3,
SRI.K.ANAND,
SMT.LATHA KRISHNAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/11/2007,ALONG WITH W.P.(C). NO. 22140/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.22126/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE NOTIFICATION NO. TRU/PER/1/2005 DTD. 11/05/05 PUBLISHED BY THE R.3.

EXT.P.2: COPY OF THE NOTICE BEARING NO. TRU/PER/1/2005 DTD. 10/10/0 ISSUED BY THE R.3.

EXT.P.3: COPY OF THE PROCEEDING NO. TRU/PER/1/2005 DTD. 06/02/06 OF THE R.3.

EXT.P.4: COPY OF THE RANK LIST OF SELECTED CANDIDATES PUBLISHED BY THE R.3. AS PER THE PROCEEDING OF THE R.2. DTD. 08/03/06.

EXT.P.5: COPY OF THE ORDER OF APPOINTMENT BEARING NO. TRU/PER/2/2006/1882 DTD. 27/04/06 ISSUED BY THE R.3.

EXT.P.6: COPY OF THE PROCEEDING NO.C 1/5401/06 DTD. 12/05/06 DTD. 12/05/06 OF THE R.1.

EXT.P.7: COPY OF THE JUDGMENT DTD. 08/12/06 IN W.P.(C). NO. 14713/06 OF THIS HONOURABLE COURT.

EXT.P.8: COPY OF THE ORDER NO. G2/8150/06 DTD. 06/02/07 OF THE R.1.

EXT.P.8.A: COPY OF THE ORDER NO. H2-16530/94 DTD. 24/04/98 OF THE R.1.

EXT.P.9: COPY OF THE REPRESENTATION DTD. 28/02/07 SUBMITTED BY THE PETITIONER BEFORE THE R.4.

RESPONDENT'S EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

prv.

THOTTATHIL B. RADHAKRISHNAN, J.

= =

WP(C).Nos.22126/2007-H & 22140/2007-I

= =

Dated this the 15th day of November, 2007.

JUDGMENT

1.The Director of Dairy Development, in exercise of the authority as the Registrar under the Kerala Co-operative Societies Act, 1969, has issued the impugned decision rescinding certain decisions of the employer, MILMA. The learned counsel for the MILMA submits that as of now, application at the instance of MILMA is pending before the Registrar seeking clarification of the impugned order.

2.The petitioners are persons who figure in a select list, which has essentially been interfered with by the impugned order.

3.The petitioners in WP(C).22126/2007 and others, who had been already appointed on the basis of

the selection, which fell for consideration before the Registrar of Co-operative Societies, have been permitted to continue on temporary basis, subject to the condition that all would follow the impugned decision of the RCS. In so far as the petitioner in WP(C).22140/2007 is concerned, he was not appointed from the select list and therefore, the RCS refused to issue any direction to appoint him, particularly when the RCS had interfered with the selection process from the stage immediately following the results of the written test.

4.The petitioners have different contentions. They say that the impugned proceedings should not have been initiated at the instance of a trade union when there was no complaint from any participant regarding the selection process. They also state that it was beyond the authority of the Director, in exercise of the power as the RCS, to interfere with the proceedings. It is also their contention that the selection and appointment

were transparent and the petitioner in WP(C) 22140/2007 is also entitled to be appointed and all appointments are liable to be regularized.

5. At the outset, I am in agreement with the learned counsel for the MILMA, who points out that the petitioners, if at all aggrieved by the impugned order of the RCS, have an effective alternate remedy by way of an appeal under Section 83 of the KCS Act. That apart, even when proceedings are still pending before the Registrar by way of an application, by MILMA, seeking clarification, it is inappropriate to retain these matters here, which would only continue to delay the proceedings before the RCS.

6. For the foregoing reasons, these writ petitions are dismissed without entering on merits and leaving the petitioners with liberty to appear before the Director/RCS during the hearing of the application filed by the MILMA for clarification and also to further agitate any of their

grievances in statutory appeals under Section 83 of the Act. The Director/RCS will make an endeavour to conclude proceedings on the application of the MILMA for clarification within an outer limit of three months from the date of receipt of a copy of this judgment since the petitioners, if aggrieved, could carry statutory appeals only thereafter. Any among the petitioners, who desires to be heard, may produce a copy of this judgment before the Director/RCS and seek a date for hearing.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/